



FAIR POLITICAL PRACTICES COMMISSION

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July 9, 2002

Laurence S. Zakson
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501 Shatto Place, Suite 100
Los Angeles, CA 90020-1792

**Re: Your Request for Advice
Our File No. A-01-195**

Dear Mr. Zakson:

This letter is in response to your request for advice on behalf of the Laborers International Union of North America, Local Union 300, AFL-CIO, regarding the campaign provisions of the Political Reform Act (the "Act").¹

QUESTION

If a labor union qualifies and reports as a recipient committee pursuant to § 82013, must payments made for the purpose of communicating with the organization's members be reported on the Form 460?

CONCLUSION

A labor union which qualifies as a committee is required to report all payments, including those made for the purpose of communicating with the organization's members. Payments for such communications must be reported on the Form 460 (schedule E) in the same manner that expenditures are reported.

FACTS

Your firm is counsel to Laborers International Union of North America, Local Union 300, AFL-CIO, which is a labor organization that reports as a statutory committee. You ask if a labor organization which reports as a statutory committee needs to report on its Form 460, including in the Schedule E thereof, communications to the organization's members that you believe fall within the parameters of Government Code section 85312.

¹ Government Code sections 81000 – 91014. Commission regulations appear at Title 2, sections 18109-18997, of the California Code of Regulations.

ANALYSIS

Your question relates to the reporting obligations imposed upon a recipient committee by the Act. Section 84200(a) provides that committees pursuant to subdivision (a) of section 82013 shall file campaign statements. Section 84211 specifies the information to be reported on each campaign statement required by the Act. In particular, subdivision (b) of this section requires reporting of the total amount of expenditures made during the period covered by the campaign statement and the total cumulative amount of expenditures made. Additionally, subsections (i), (j), and (k) of section 84211 further describe other information regarding an expenditure which must be reported.

“‘Expenditure’ means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, unless it is clear from the surrounding circumstances that it is not made for political purposes.” (Section 82025.)

Regulation 18225 further defines expenditure:

“(a) An expenditure is any monetary or nonmonetary payment made for political purposes. A payment is made for political purposes if it is:

(1) For the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of a candidate or candidates, or the qualification or passage of any measure....”

(Regulation 18225(a).)

A payment is also made for political purposes if it is made by an organization formed or existing primarily for political purposes as defined in subsection (a)(1), above, including a political action committee established by any labor union. (Regulation 18225(a)(2)(D).)

Proposition 34 added section 85312 to the Act. Section 85312, as amended by Senate Bill 34, states:

“For purposes of this title, payments for communications to members, employees, shareholders, or families of members, employees, or shareholders of an organization for the purpose of supporting or opposing a candidate or a ballot measure are not contributions or expenditures, provided those payments are not made for general public advertising such as broadcasting, billboards, and newspaper advertisements. However, payments made by a political party for communications to its members who are registered with that party which would otherwise qualify as contributions or expenditures shall be reported in accordance with Article 2 (commencing with Section 84200) of Chapter 4, and Chapter 4.6 (commencing with Section 84600), of this title.”

You have asked whether this section reduces the reporting obligations for a labor union which qualifies and reports as a recipient committee. At its March 2002 meeting, the Commission considered various issues presented by the membership communication provisions of the Act, and provided guidance to staff regarding the interpretation of section 85312.

With regard to committee reporting of payments for these communications, the Commission supported the approach of including committees as an “organization” but requiring reporting of the payments made by a committee for membership communications in the same manner that expenditures are reported. (Minutes of the Meeting, March 14, 2002.) The proposed regulation considered by the Commission at the March 2002 meeting provides:

“(d) If the organization is a committee organized under Government Code section 82103(a) and therefore already subject to the reporting requirements of Chapter 4 of this title, the payment is reportable as an expenditure in accordance with the requirements of Government code section 84211, subdivisions (b), (i), (j) and (k).” (Proposed Regulation 18531.7, considered at the March 2002 Commission Meeting.)

The Commission’s rationale for their support of this approach was based on the reporting provisions of Chapter 4 of the Act (“Campaign Disclosure”), requiring a committee to report all payments which it makes and receives. (See Memorandum to the Commission, “Payments for ‘Member Communications,’” March 7, 2002; Sections 84200-84204, 84211; *Karnette* Advice Letter, No. I-87-192.) Specifically, section 84211(e) requires committees to disclose the balance of cash held at the beginning and the end of each campaign reporting period.² Thus, in an effort to issue advice consistent with the Commission’s preliminary determinations regarding section 85312, we advise a labor union which qualifies as a committee to report all payments made from the committee’s funds, including those which may be covered by section 85312, in the manner described above.³

Please be aware that the Commission will revisit the proposed regulatory language designed to implement the membership communications provisions of the Act. The Commission at that time may promulgate regulations that may alter this advice. You may wish to view our website, www.fppc.ca.gov, for additional updated information.

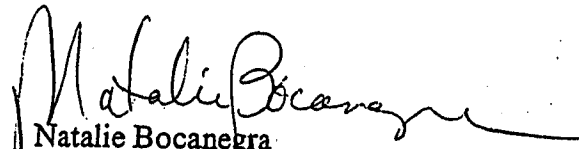
² The current Form 460 approved by the Commission is structured so that every dollar received and spent is disclosed on one of the form schedules consistent with the requirements of the Act.

³ This means that, unless further specified by the Commission, the requirements of (k)(1) – (5) would apply.

If you have any other questions regarding this matter, please contact me at (916)
322-5660.

Sincerely,

Luisa Menchaca
General Counsel

By: 
Natalie Bocanegra
Staff Counsel, Legal Division

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